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Environment and sustainable development: implementation of and follow-up to the outcome of the United Nations Conference on Environment and Development, including the outcome of the nineteenth special session of the General Assembly for the purpose of an overall review and appraisal of the implementation of Agenda 21

Ways and means of undertaking the review of progress made in implementing conventions related to sustainable development

Report of the Secretary-General

1. The development of international environmental law has been one of the most rapidly evolving fields in international relations over the last decade. Under the auspices of the United Nations, the progressive development of international environmental law related to sustainable development provides a new and innovative response by the international community in terms of building and enhancing a process to address the most pressing global environmental challenges. This development has inspired new and innovative concepts, principles and ideas and resulted in facilitative and enabling mechanisms and procedures in areas such as implementation and compliance and dispute avoidance and settlement, among others. It is playing, thereby, an increasingly important role in promoting the integration of environment and development and providing an effective legal and regulatory framework for underpinning the efforts of the international community to achieve sustainable development.

2. The total number of legal agreements dealing with environment and sustainable development is rising while the average time taken to negotiate each treaty is steadily decreasing. Within the same time-frame, the scale of problems to be addressed has widened – from the regional through the hemispheric to the global – while the total number of sovereign States that have to participate in the negotiation of such legal arrangements has gradually burgeoned. New concerns and principles – precaution, inter- and intra-generational equity, scientific uncertainty, sustainable development – have also arisen in recent years and now need to be factored into the negotiation process. Clearly, the definition, negotiation and creation of the various legally binding conventions and protocols on the environment represent an outstanding achievement of the international community. Binding international conventions now exist in areas as diverse as climate change,[1] biological diversity,[2] desertification[3] and, most recently, prior informed consent of trade in hazardous chemicals and pesticides. While this represents an impressive record of achievements of the international community, it also raises the issue of the need for continuing policy coherence among the various instrumentalities that exist in this area, at both the inter-agency and intergovernmental levels.

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3. Since the United Nations Conference on Environment and Development, the review of progress in the implementation of specific conventions has increasingly been in the agenda of the sessions of the General Assembly. Such reviews, however, have been restricted to specific conventions, in particular those related to biological diversity, climate change and desertification. Increasingly, however, intergovernmental concern has come to focus on the need to ensure policy coherence among the various instruments, particularly in light of the burdens imposed on Member States due to the proliferation of meetings and mechanisms, and also to ensure that the cross linkages among the various subject areas are recognized, as well as to promote the efficient and effective implementation of the conventions.

4. Within this context, the General Assembly, in its decision 52/445 of 18 December 1997 entitled "Progress in the implementation of conventions relating to sustainable development", decided to continue to review the progress made in implementing the conventions signed at the United Nations Conference on Environment and Development or established as a result of the Conference, as well as other conventions related to sustainable development, and requested the Secretary-General to submit to it at its fifty-third session a report on the ways and means of undertaking such a review. The present report proposes elements of an intergovernmental process that the Assembly may take into consideration in its deliberations on how such a review could be carried out.

5. At its nineteenth special session, the General Assembly, by its resolution S/19-2 of 28 June 1997, adopted the Programme for the Further Implementation of Agenda 21,[4] annexed to that resolution, wherein the Assembly made a number of specific and relevant recommendations. These included a recommendation that the conferences of the parties to the conventions signed at the United Nations Conference on Environment and Development or as a result of it, as well as to other conventions related to sustainable development, should cooperate in exploring ways and means of collaborating in their work to advance the effective implementation of those conventions. The Assembly recognized that institutional arrangements for the convention secretariats should provide effective support and efficient services, while ensuring the appropriate autonomy necessary for them to be efficient at their respective locations. The Assembly stated that at the national and international levels there was a need for, *inter alia*, better scientific assessment of ecological linkages between the conventions; identification of programmes that had multiple benefits; and enhanced public awareness-raising with respect to the conventions. The Assembly recommended that such tasks should be undertaken by the United Nations Environment Programme (UNEP) in accordance with the relevant decisions of its Governing Council and in full cooperation with the conferences of the parties to and governing bodies of relevant conventions. The Assembly, in recognition of the role played by UNEP in the development of many of these conventions, also recommended that the role of UNEP in the further development of international environmental law should be strengthened, including the development of coherent interlinkages among relevant environmental conventions in cooperation with their respective conferences of the parties or governing bodies. In performing its functions related to the conventions signed at the United Nations Conference on Environment and Development or as a result of it, and other relevant conventions, UNEP should strive to promote the effective implementation of those conventions in a manner consistent with the provisions of the conventions and the decisions of the conferences of the parties.

6. The General Assembly also recognized the importance of the Nairobi Declaration on the Role and Mandate of UNEP,[5] adopted on 7 February 1997 by the Governing Council of UNEP at its nineteenth session, in further refining the role and mandate of UNEP. With respect to international environmental law, the Nairobi Declaration provided as core elements of the focused mandate of the revitalized UNEP, *inter alia*, the further development of international environmental law aiming at sustainable development, including the development of coherent interlinkages among existing international environmental conventions; the advancement of the implementation of agreed international norms and policies; and the monitoring and fostering of compliance with environmental principles and international agreements and the stimulating of cooperative action to respond to emerging environmental challenges.

7. Further to the adoption of General Assembly decision 52/445, the Secretary-General established the United Nations Task Force on Environment and Human Settlements, chaired by UNEP's Executive Director (see A/53/463). Among its terms of reference, the Task Force was mandated to review existing structures and arrangements through which environment and environment-related activities are carried out within the United Nations, with particular reference to those departments, funds and programmes that report to the Secretary-General, but also taking into account the relevant programmes and activities of the specialized agencies. Furthermore, the Task Force was requested to evaluate the efficiency and effectiveness of existing structures and arrangements and make recommendations for

such changes and improvements as would optimize the work and effectiveness of the United Nations environmental work at the global level and of UNEP as the leading United Nations environmental organization or "authority", as well as the role of UNEP as the principal source of environmental input into the work of the Commission on Sustainable Development.

8. Following an in-depth process, the Task Force made a number of recommendations germane to the future review by the General Assembly of progress in the implementation of the conventions related to sustainable development (see A/53/463, annex, sect. III). In particular with respect to the mandate emanating from the nineteenth special session of the Assembly, the Task Force recommended (2 (a)) that UNEP base its support to global and regional conventions on its capacities for information, monitoring and global assessment which should be strengthened substantively and urgently. This echoes the Nairobi Declaration on the Role and Mandate of UNEP. The Task Force also recommended that UNEP build its capacity and networks to ensure the scientific underpinning of conventions, and facilitate their implementation. The Task Force further recommended (2 (b)) that UNEP continue to support joint meetings of heads of convention secretariats to ensure that the work programmes established by the conferences of the parties and the substantive support provided by UNEP were complementary, filled gaps and took advantage of synergies. The Task Force further recommended (2 (c)) that the President of UNEP's Governing Council be invited to consult with the presidents of the conferences of the parties to selected conventions on arrangements for periodic joint meetings of representatives from those conventions so as to address cross-cutting issues arising from their work programmes and policy approaches. It is recommended that this report be read in conjunction with the report of the Secretary-General on environment and human settlements (A/53/463) containing, in its annex, the report of the United Nations Task Force on Environment and Human Settlements, which is also currently before the Assembly at its fifty-third session.

9. With the report of the Task Force to be discussed by the General Assembly at its fifty-third session, it is quite clear that the Assembly should begin to play an important role in the overall development of international environmental law related to sustainable development from a more cross-sectoral and integrated perspective than has been the case so far. In line with the recommendations put forward by the Task Force for steps to be taken by UNEP, recommendations that in part provide core elements of an intergovernmental process of review, such a review by the Assembly should be policy-oriented and well prepared and constitute the culmination of an intergovernmental process that would allow the Assembly to:

(a) Undertake periodic integrated assessments of progress in conventions that could be carried out on a thematic or issue basis;

(b) Identify and make policy recommendations on interlinkages among various conventions;

(c) Promote policy coherence among the provisions of various legal instruments and activities undertaken to implement them;

(d) Identify overlap or inconsistencies among the various instruments;

(e) Identify and promote areas of activity that have multiple benefits;

(f) Provide consolidated policy advice rather than separate sectoral resolutions.

10. The outcomes of the nineteenth special session of the General Assembly and the nineteenth session of the Governing Council of UNEP, as well as the recommendations of the United Nations Task Force, provide modalities on how such a review could be organized. Criteria that would underpin such modalities should include the following points:

(a) That policy decisions under the conventions are undertaken by their respective conferences of the parties which are autonomous bodies;

(b) That the interlinkages among conventions are strengthened with a view to achieving synergies and multiple benefits and promoting coherence of policies and actions.

11. Consistent with paragraph 38.22 (h) of Agenda 21, UNEP should take action to continue to support joint meetings of heads of convention secretariats to ensure that the work programmes established by the conferences of the parties and the substantive support provided by UNEP are complementary, fill gaps and take advantage of synergies. The annual meetings that UNEP has sponsored have addressed potential areas for increased cooperation and common issues such as implementation at the national level, including development of relevant national legislation and institutions, capacity-building and technical assistance. They could also serve to identify the cross-cutting issues to be brought to the attention of the UNEP Governing Council, the Commission on Sustainable Development and the General Assembly.

12. Building on this initiative, and in a manner consistent with the provisions of the conventions and the decisions of their conferences of the parties, UNEP in close collaboration with the convention secretariats and the scientific community could examine and provide studies on the overall progress of the implementation of the conventions. These could include a legal assessment of the effectiveness of existing instruments as well as an addressing of the issue of compliance or limited compliance by parties, and identification of the need for additional protocols or amendments. The programmatic and substantive perspective could provide scientific assessments of ecological linkages between conventions, with a view to identifying potential overlap or conflicting implementing actions possibly providing early warning signals to conferences of the parties as they consider additional provisions. This perspective might also help to identify programme areas that could lead to joint projects by convention secretariats, UNEP and other concerned United Nations organizations, building on the success of current bilateral initiatives between conventions that have been developed on an as-needed basis.

13. Furthermore, pursuant to its mandate as the lead agency in facilitating the implementation of international environmental law and its development into a cohesive and coherent body of law, UNEP has pursued a programme for the development and periodic review of environmental law for the 1990s known as the Montevideo Programme. Through this programme, UNEP has played a pivotal role in assisting developing countries and countries with economies in transition in strengthening their legal, institutional and human capacity for meeting their obligations under international environmental law. UNEP could bring to the attention of the General Assembly progress in this respect as well as gaps and further requirements.

14. In line with the recommendation of the United Nations Task Force, the President of UNEP's Governing Council could be invited to consult the presidents of the conferences of the parties to selected conventions on arrangements for periodic joint meetings of representatives from those conventions in order to address cross-cutting issues, and the Executive Director of UNEP and the heads of convention secretariats could organize and attend these meetings. This could provide the opportunity for secretariat heads to present the conferences of the parties, for their consideration through their representatives, with the outcomes and recommendations of the joint meetings of the heads of secretariats of global and regional conventions. In turn, the results of the joint meetings of the representatives of the conferences of the parties to the conventions would be brought to the attention of UNEP's Governing Council, and to the Commission on Sustainable Development as appropriate. It is hoped that the General Assembly will give support to this recommendation.

15. The outcome of the Governing Council's deliberations on the coordination of conventions, informed by the reports of the joint meetings of the convention secretariats and the further consideration of those integrated assessments by the joint meetings of the bureaux of the conferences of the parties, could provide an input, for its consideration from the social and economic perspective, into the deliberations of the Commission on Sustainable Development. Such a process could also be organized to coincide with the issues on the programme of work of the Commission in any particular year. It could also be presented in a report to the General Assembly. In this regard, the Assembly may wish to consider placing an item devoted to "an integrated assessment of progress under conventions related to sustainable development" in the agendas of its regular sessions every alternate year. This could assist in developing and enhancing the process of an integrated assessment of progress in the implementation of the conventions, with a view to achieving synergies, and ensuring that the international community derives maximum benefits from its investments in this system of legal environmental instruments, without detracting from the individual focuses and mandates of the autonomous conventions.

16. Consideration could be given to the opportunity to undertake a comprehensive integrated assessment of progress in the implementation of conventions at the review and appraisal of the implementation of Agenda 21 (Earth Summit + 10) in the year 2002, following the process of review extending through UNEP's Governing Council to the Commission on Sustainable Development and the General Assembly, as outlined above. As intermediary steps, UNEP could initiate this proposed process of review on a thematic basis. The proposed modalities would also allow the Assembly to play an enhanced role in building political support for the conventions and their implementation, as well as in promoting public awareness of their importance.

Notes

[1] A/AC.237/18 (Part II)/Add.1 and Corr.1, annex I.

[2] See United Nations Environment Programme, *Convention on Biological Diversity* (Environmental Law and Institution Programme Activity Centre), June 1992.

[3] A/49/84/Add.2, annex, appendix II.

[4] *Report of the United Nations Conference on Environment and Development, Rio de Janeiro, 3–14 June 1992*, vol. I,

Resolutions Adopted by the Conference (United Nations publication, Sales No. E.93.I.8 and corrigendum), resolution 1, annex II.

[5] *Official Records of the General Assembly, Fifty-second Session, Supplement No. 25* (A/52/25), annex, decision 19/1, annex.